

DEPARTMENT OF ADMINISTRATION
DIVISION OF BANKING & FINANCIAL INSTITUTIONS



STEVE BULLOCK
GOVERNOR

MELANIE HALL
COMMISSIONER

STATE OF MONTANA

301 SOUTH PARK, SUITE 316
HELENA, MT 59601

PHONE: (406)841-2920 • FAX: (406)841-2930
E-MAIL: BANKING@MT.GOV



TO: Montana Consumer Loan Licensees
FROM: Department of Administration, Division of Banking and Financial Institutions
DATE: August 8, 2013
RE: 2013 Legislative Amendments to the Montana Consumer Loan Act

December 31, 2013, is the effective date of numerous amendments to the Montana Consumer Loan Act under HB 65. The purpose of this memorandum is to summarize the primary substantive amendments. To view the bill in its entirety, go to the Montana Legislative Branch website <http://www.leg.mt.gov/css/default.asp>. On the left side of the computer screen, click on Bills then on 2013 LAWS. Fill in the Bill Type and Number (HB 65) and enter. Be sure to view the final version of the bill.

Statutory language that was amended is shown by a strike through (e.g., ~~A seller who complies with~~). Newly adopted language is underlined. *Be advised that some stricken provisions have only been moved to a different statute and underlined there in order to consolidate related topics and improve the overall organization of the Act.*

SUMMARY

In §32-5-102, MCA, the definition of "interest" was amended to ensure that fees and other charges that are prohibited under §32-5-301, MCA, cannot be charged under the auspices of being "interest".

§32-5-201, MCA, was amended to eliminate the discounting of the application fee if a license application is made after the midpoint of the license year.

In §32-5-202, MCA, three additional bases for denial of a license or license renewal are specified.

§§32-5-205 and 32-5-207, MCA were amended to add that the surrender, revocation, or suspension of a license does not affect the licensee's administrative liability for violations that occurred before those occurrences. The amendment of §32-5-207, MCA, also extended the time within which a licensee may request a hearing following service of a notice of alleged

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violations and eliminated the “per administrative action” cap on civil penalties that may be imposed by the Division.

§32-5-301, MCA was rearranged for clarity purposes and credit insurance premiums were added to the list of third party fees that may be included in the principal amount of a loan, at the borrower’s option.

§32-5-305, MCA, was amended to clarify that borrowers may personally and voluntarily confess judgment after the borrower’s loan is in default.

A new statute was created by HB 117 which requires that all consumer loans made or refinanced under the Montana Consumer Loan Act be made on simple interest and prohibits pre-computed consumer loans.

Lastly, the bill authorizes the Division to participate in a nationwide licensing system for licensing and renewing the licenses of consumer loan licensees. The Division sought the legislative authorization after states were offered the opportunity to license regulated, non-mortgage financial services businesses through the Nationwide Mortgage Licensing System (NMLS). The date for transitioning the licensing of consumer loan licensees onto NMLS has not been determined but ample advance notice, information, and assistance will be available to current licensees and new license applicants. A number of states are currently licensing their consumer loan licensees through NMLS.